

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

§

§

v.

§

CAUSE NO. 2:21-cr-00878-KG

§

JOHN BENJAMIN THORNTON

§

**MOTION DETERMINE COMPETENCY**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now, BROCK BENJAMIN, attorney of record for Defendant, JOHN BENJAMIN THORNTON, and respectfully moves the Court to order an evaluation of Mr. Thornton, and as grounds would show the Court the following:

**I.**

On or about December 16, 2021, the undersigned counsel is appointed to represent the Defendant in the above entitled and numbered cause.

**II.**

The undersigned has conferred with the Defendant several times, discussing, procedure, evidence and the options are available to the client. These dates included calls and in person visits at the Dona Ana Detention Center. The last visit was prompted by an email from Mr. Thornton that was forwarded to the undersigned on April 11, 2022 through the Las Cruces Federal Public Defender's office. Based on that email, the undersigned visited Mr. Thornton the next day, April 12, 2022. That visit deteriorated very quickly. Mr. Thornton was in a very animated state and much different than he had been when the undersigned had last seen him on March 9, 2022. Undersigned

counsel will state that the lines of communication with Defendant have broken. Mr. Thornton was very animated and demanded the undersigned's withdrawal.<sup>1</sup>

The undersigned is the Defendant's second attorney in this matter. The first attorneys were from the Federal Public Defender's office.

### **III.**

The undersigned would request that the Court consider the ordering of an evaluation under 18 U.S.C. §4241. The undersigned takes this position as he believes that the defendant in several communications has failed to demonstrate competency. Counsel has requested and received appointment of a mitigation specialist. She has requested records to evaluate. The undersigned had intended on reviewing those records prior to filing a motion to evaluate Mr. Thornton. However, based on the interaction on April 12, 2022 that determination cannot wait.

Further, the undersigned does not believe that continued representation without an evaluation will be productive if Mr. Thornton is determined to be competent.

### **IV.**

This case does not have any hearings scheduled at this time.

### **V.**

Based on the requested relief and issues raised, the position of the United States was not sought on this motion.

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<sup>1</sup> The undersigned is appointed under the Criminal Justice Act and should the Court consider withdrawing the undersigned that is within its discretion and may assist subsequent to any determination.

**VI.**

Defendant is presently incarcerated at the Dona Ana County Detention Center, Booking No. 2100003053, 1850 Copper Loop, Las Cruces, New Mexico 88005. A copy of this motion was mailed to him at that address.

WHEREFORE, PREMISES CONSIDERED, Movant has no alternative but to file this Motion to Determine Competency.

Respectfully submitted,

/s/ Brock Benjamin  
BROCK BENJAMIN  
NM Bar No. 141535  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this the 28<sup>th</sup> day of April, 2022, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF system for filing and service to all CM/ECF registrants.

/s/ Brock Benjamin  
BROCK BENJAMIN